

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ROBERT R. PORTER,	)	
	)	Civil Action No. 04 - 1736
Plaintiff,	)	
	)	
v.	)	
	)	
HARRY C. CANCELMI,	)	
	)	
Defendant.	)	

**ORDER**

Plaintiff submitted a Motion to Proceed In Forma Pauperis on November 4, 2005, which was incorrectly terminated on December 13, 2005. The motion must be ruled upon to properly effectuate service through the United States Marshals. The motion, therefore, will be revisited by the Court at this time.

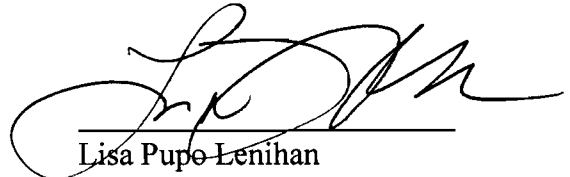
The Prison Litigation Reform Act of 1996, 28 U.S.C. § 1915(b) as amended April 26, 1996, requires that prisoners, who cannot pay the full filing fee immediately, submit an initial partial filing fee and the balance in installment payments. His current monthly balance in his inmate account is a zero dollars. The Court finds that requiring the Plaintiff to contribute anything towards the filing fee at this time would create a grave injustice and the payment of the initial partial filing fee is held in abeyance. Therefore,

**IT IS HEREBY ORDERED** that the agency having custody of the Plaintiff shall forward to the Clerk of Court payments from the prisoner's account in the amount of twenty percent of the preceding month's income credited to the prisoner's account each time the account exceeds ten dollars (\$10.00), until the full filing fee is paid in accordance with provisions of 28 U.S.C. § 1915(b)(1).

**IT IS FURTHER ORDERED** that leave to proceed in forma pauperis is **GRANTED** and the Clerk of Court is directed to file Plaintiff's Complaint. The Plaintiff shall, within twenty (20) days, authorize payment of the filing fee by returning to the court one of two attached copies of the Notice and Authorization of Withdrawal of Action, permitting payment of monthly installments in the amount of twenty percent of his preceding month's income whenever the amount in his account exceeds ten dollars. The requisite amount shall be forwarded to the Clerk of Court. The portion of the notice entitled "AUTHORIZATION" must be signed by the Plaintiff. In the alternative, the Plaintiff may withdraw this action by signing that portion of the notice entitled "WITHDRAWAL OF ACTION".

**IT IS FURTHER ORDERED** that the Plaintiff is allowed ten (10) days from this date to appeal this order to a district judge pursuant to Rule 72.1.3(B) of the Local Rules for Magistrates. Failure to appeal within ten (10) days may constitute waiver of the right to appeal.

1-19-06  
Date

  
\_\_\_\_\_  
Lisa Pupo Lenihan  
U.S. Magistrate Judge

cc: ROBERT R. PORTER  
DU-6434  
SCI Camp Hill  
P.O. Box 200  
Camp Hill, PA 17001  
  
Inmate Account Officer  
SCI Camp Hill  
P.O. Box 200  
Camp Hill, PA 17001

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HARRY C. CANCELMI,	)	
	)	
Defendant.	)	

**NOTICE AND AUTHORIZATION OR WITHDRAWAL OF ACTION**

AND NOW, this 11<sup>th</sup> day of January, 2006;

**TO THE PLAINTIFF IN THE ABOVE ACTION:**

**YOU ARE HEREBY NOTIFIED** that in order for your case to proceed it will be necessary for you to sign the **AUTHORIZATION** below. You must return the signed form to the Clerk of the United States District Court for the Western District of Pennsylvania within twenty (20) days of the date of this notice.

By signing the **AUTHORIZATION** and sending it to the Clerk, you will be agreeing to: 1) authorize the inmate account officer to withdraw from your account the initial partial filing fee and send it to the Clerk of this court; and 2) authorize the inmate account officer to make the remaining installment payments.

If the Clerk does not receive a copy of this Notice with the **AUTHORIZATION** signed by you within twenty (20) days, the court will conclude that you do not intend to proceed with your lawsuit and your action will be dismissed for your failure to prosecute. The Prison Litigation Reform Act of 1996, 28 U.S.C. § 1915(g) provides that a prisoner may not bring a civil action or

appeal a judgment in a civil action in forma pauperis if the prisoner has, on three or more prior occasions while incarcerated, brought an action or appeal in a court of the United States that was dismissed on the grounds that it was frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury. If you elect to withdraw the present action it would not be counted as one of the three prior dismissals. You may wish to consider this provision in deciding whether to proceed with this law suit. If you do not wish to proceed with this lawsuit you should sign the **WITHDRAWAL OF ACTION** form below and send it to the Clerk of this court.

1-18-06

Date

A handwritten signature in black ink, appearing to read 'Lisa Pupo Lenihan', written over a horizontal line.

LISA PUPO LENIHAN  
U.S. Magistrate Judge

cc: ROBERT R. PORTER  
DU-6434  
SCI Camp Hill  
P.O. Box 200  
Camp Hill, PA 17001

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	)	
Defendant.	)	

**AUTHORIZATION**

I, Robert Porter, hereby authorize the custodian of my inmate account to withdraw from my account and pay to the Clerk, United States District Court for the Western District of Pennsylvania, to accrue/freeze twenty percent (20%) of each item of income on the date received, accrue/freeze these amounts and forward one payment per month of the amount accrued/frozen each time the amount in my account exceeds \$10.00, to the Clerk, United States District Court, until the entire filing fee of \$150.00 for Civil Action No. 04-1736 has been paid.

\_\_\_\_\_  
PLAINTIFF'S SIGNATURE

\_\_\_\_\_  
DATE

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**WITHDRAWAL OF ACTION**

I, Robert Porter, hereby Move to Withdraw this action.

\_\_\_\_\_  
PLAINTIFF'S SIGNATURE

\_\_\_\_\_  
DATE